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9  NEO4J, INC. and NEO4J SWEDEN AB

10                  UNITED STATES DISTRICT COURT

11                NORTHERN DISTRICT OF CALIFORNIA

12  NEO4J, INC., a Delaware corporation, and       CASE NO. 5:18-CV-07182-EJD
    NEO4J SWEDEN AB, a Swedish
13  corporation,                                    **DECLARATION OF JEFFREY M.**
                                                    **RATINOFF IN SUPPORT OF**
14                  Plaintiffs,                     **ADMINISTRATIVE MOTION TO FILE**
                                                    **PORTIONS OF PLAINTIFFS' MOTION**
15          v.                                      **FOR SUMMARY JUDGMENT AND**
                                                    **EXHIBITS TO SUPPORTING**
16  PURETHINK LLC, a Delaware limited               **DECLARATIONS UNDER SEAL**
    liability company, IGOV INC., a Virginia
17  corporation, and JOHN MARK SUHY, an             [CIVIL L.R. 7-11 and 79-5]
    individual,
18
                    Defendants.
19
    ─────────────────────────────────────
20  AND RELATED COUNTERCLAIM.

21  ─────────────────────────────────────
    NEO4J, INC., a Delaware corporation, and        CASE NO.  5:19-CV-06226-EJD
22  NEO4J SWEDEN AB, a Swedish
    corporation,
23
                    Plaintiffs,
24
            v.
25
    GRAPH FOUNDATION, INC., an Ohio
26  corporation, GRAPHGRID, INC., an Ohio
    corporation, and ATOMRAIN INC., a
27  Nevada corporation,

28                  Defendants.

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DECLARATION OF JEFFREY M. RATINOFF IN SUPPORT OF PLAINTIFFS' MOTION TO SEAL
5:18-CV-07182-EJD; AND 5:19-CV-06226-EJD

1     I, Jeffrey M. Ratinoff, declare as follows:

2     1.     I am an attorney at law, duly licensed to practice before all courts of the State of

3 California, and am of counsel with Hopkins & Carley, a Law Corporation, attorney of record for

4 Plaintiffs Neo4j, Inc. and Neo4j Sweden AB (collectively "Plaintiffs") in the above-captioned

5 matters. I make this declaration in Support of Plaintiffs' Administrative Motion to File Portions

6 Of and Exhibits to Motion for Summary Judgment and Supporting Declarations Under Seal (the

7 "Motion to Seal").

8     2.     As part of Plaintiffs' Consolidated Motion for Summary Judgment, Plaintiffs are

9 filing documents as evidentiary support thereto that contain Plaintiffs' private, confidential, and

10 commercially sensitive business information as follows:

11     (a)     **Exhibit 6** to the Declaration of Jeffrey M. Ratinoff in support of Plaintiffs'

12 Motion for Summary Judgment ("Ratinoff MSJ Declaration");

13     (b)     **Exhibit 7** to Ratinoff MSJ Declaration;

14     (c)     **Exhibit 27** to Ratinoff MSJ Declaration;

15     (d)     **Exhibit 126** to Ratinoff MSJ Declaration;

16     (e)     **Exhibit 3** to the Declaration of John Broad in support of Plaintiffs' Motion

17 for Summary Judgment ("Broad MSJ Declaration");

18     (f)     **Exhibit 12** to the Broad MSJ Declaration; and

19     (g)     **Exhibit 13** to the Broad MSJ Declaration.

20     3.     In addition, Plaintiffs are seeking to seal the following portions of their Motion for

21 Summary Judgment, which that contains information drawn from these confidential documents:

22     (a) Page 6, Lines 9-11 (citing to Exhibit 6 to the Ratinoff MSJ Declaration); and

23     (b) Page 6, Lines 14-15 (citing to Exhibit 7 to the Ratinoff MSJ Declaration);

24 Only these portions are being redacted in the publicly filed version of the Motion.

25     4.     I have taken affirmative steps to minimize the evidence supporting their Motion for

26 Summary Judgment that Plaintiffs seek to file under seal, and as a result Plaintiffs only seeking to

27 seal a small amount of documentary evidence underlying its motion and seeking to redact a fraction

28 of the Motion. I believe that this request is narrowly tailored to only seek the sealing of confidential

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842\3660272.3                    - 1 -
DECLARATION OF JEFFREY M. RATINOFF IN SUPPORT OF PLAINTIFFS' MOTION TO SEAL
5:18-CV-07182-EJD; AND 5:19-CV-06226-EJD

1    and proprietary material that must be sealed to prevent substantial competitive harm to Plaintiffs,

2    while at the same time taking into account the public's right of access to the Court's records.

3         5.     In addition, Plaintiffs are preliminarily lodging documents produced by Defendants

4    Purethink LLC, iGov Inc. and John Mark Suhy (collectively the "PT Defendants") in discovery,

5    which they have designated as "Confidential" under the Protective Order (PT Dkt. No. 34) entered

6    in *Neo4j, Inc., et al. v. PureThink LLC., et al.*, Civil Case No. 5:18-cv-07182-EJD pursuant to Civil

7    Local Rule 79-5(e).  These documents include:

8         (a)     **Exhibit 55** to the Ratinoff MSJ Declaration;

9         (b)     **Exhibit 126** to the Ratinoff MSJ Declaration;

10        (c)     **Exhibit 130** to the Ratinoff MSJ Declaration;

11        (d)     **Exhibit 131** to the Ratinoff MSJ Declaration;

12        (e)     **Exhibit 132** to the Ratinoff MSJ Declaration;

13        (f)     **Exhibit 133** to the Ratinoff MSJ Declaration;

14        (g)     **Exhibit 134** to the Ratinoff MSJ Declaration; and

15        (h)     **Exhibit 135** to the Ratinoff MSJ Declaration.

16        6.     In addition, Plaintiffs conditionally redacted **Page 12, Lines 9-12** in their Motion

17   for Summary Judgment, which that contains information quoted from **Exhibit 55** to the Ratinoff

18   MSJ Declaration.

19        7.     These documents and a quote therefrom are cited as evidence supporting Plaintiffs'

20   Motion for Summary Judgment.  Plaintiffs do not concur with, agree or concede the appropriateness

21   of Defendants' aforementioned confidentiality designations, and only are conditionally lodging

22   them under seal as required by the Protective Order and Civil Local rule 79-5.

23        8.     In addition, Plaintiffs request to preliminarily lodge **Exhibit 3** to the Ratinoff MSJ

24   Declaration under seal in the interest of caution.  **Exhibit 3** constitutes excerpts from the deposition

25   transcription from the October 22, 2020 Rule 30(b)(6) deposition of Defendant iGov Inc.  During

26   the deposition, PT Defendants conditionally designated this transcript under Section 5.2(b) of the

27   Protective Order with the understanding that they would review and specifically designate the

28   portions of the transcript they believed warranted protection under the Protective Order.

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842\3660272.3       - 2 -

DECLARATION OF JEFFREY M. RATINOFF IN SUPPORT OF PLAINTIFFS' MOTION TO SEAL
5:18-CV-07182-EJD; AND 5:19-CV-06226-EJD

9.      Although I believed that counsel for the PT Defendants had already received the transcript for the Rule 30(b)(6) deposition of Defendant iGov Inc. as we had already received our copy, I provided a copy of the transcript to counsel for the PT Defendants on November 13, 2020, requesting that they provide the appropriate designations (if any) in a timely manner.  As a result, the deadline to provide specific designations was December 4, 2020 pursuant to Section 5.2(b) of the Protective Order.

10.      My colleague John Picone and I made several written requests – both before and after the expiration of the deadline – that the PT Defendants provide their designations ahead of the filing of Plaintiffs' Motion for Summary Judgment.  As of the time of this declaration, PT Defendants failed to provide their specific designations.

11.      While I believe Defendants waived their right to designate any portion of the transcript under the Protective Order, and none of the excerpts contain any confidential information, Plaintiffs are conditionally lodging these excerpts under seal in the interest of caution.

12.      This Declaration is being served on counsel for the PT Defendants as required by Civil Local rule 79-5(e) thereby giving them notice that Defendants must file a declaration in support of sealing these documents if they wish to avoid their disclosure to the public.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed this 11th day of December, 2020, at San Jose, California.


_/s/ Jeffrey M. Ratinoff_
Jeffrey M. Ratinoff

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842\3660272.3                                                 - 3 -
DECLARATION OF JEFFREY M. RATINOFF IN SUPPORT OF PLAINTIFFS' MOTION TO SEAL
5:18-CV-07182-EJD; AND 5:19-CV-06226-EJD